

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO. 3:19-CV-00457-FDW-DCK *SEALED*

UNITED STATES OF AMERICA AND THE)
STATES OF FLORIDA, GEORGIA,)
LOUISIANA, NEVADA, NORTH)
CAROLINA, OKLAHOMA, TENNESSEE,)
AND VIRGINIA,)
EX REL. DANIEL RHODES)
)
Plaintiff-Relator,) ORDER
)
v.)
)
ACADIA HEALTHCARE COMPANY, INC.)
AND ERIN MCCARTHY,)
)
Defendants.)
)

THIS MATTER is before the Court on the Relators' Notice of Voluntary Dismissal and Motion to Remain Under Seal (Doc. No. 27), the Government's Consent to Voluntary Dismissal, (Doc. No. 29), and the Government's Response in Opposition to the Motion to Remain Under Seal, (Doc. No. 34).

Plaintiffs in this action filed a notice of voluntarily dismissal pursuant to Rule 41(a)(1)(A)(i), which typically allows dismissal of an action "without a court order." Fed. R. Civ. P. 41(a)(1)(A)(i). The same pleading also included a "Motion to Remain Under Seal," which sought an order "for the court filings of this lawsuit to remain under seal." (Doc. No. 27-1). The magistrate judge assigned to this case entered an order to "grant" Plaintiff's filing and order that this case to remain under seal until otherwise ordered. (Doc. No. 28). Appropriately, the magistrate judge's order did *not* specify a ruling on dismissal of the action.

Under 31 U.S.C. § 3730(b)(1), a civil action for a violation of section 3729—which is the basis for the instant case—“may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” At the time the magistrate judge entered its order, the Government had not yet filed its consent. Subsequently, the Government filed its consent and indicated its response that an opposition to the Motion to Remain Under Seal would be forthcoming, (Doc. No. 29). After the magistrate judge set a briefing schedule, the Government timely submitted a brief in opposition in part to Plaintiff’s Motion to Remain Under Seal, (Doc. No. 34). Although permitted under the briefing schedule set by the magistrate judge, Plaintiff was entitled to—but did not—respond to the Government’s opposition brief. Accordingly, this Court must resolve the dismissal of the action and the issue of this case remaining under seal pending before the Court.

Upon review of the parties’ filings, and in light of the Government’s consent, the Court hereby enters the following Order.

IT IS, THEREFORE, ORDERED that:

1. Plaintiff’s Notice of Voluntary Dismissal and Motion to Remain Under Seal, (Doc. No. 27), is GRANTED IN PART AND DENIED IN PART;
2. For the reasons stated in the Government’s Brief in Opposition, (Doc. No. 34), the pleadings filed on the Docket as Numbers 13, 16, 19, 22, and 25, will REMAIN UNDER SEAL absent further Order from this Court;
3. All other documents on this docket are hereby UNSEALED for the reasons stated in Plaintiff’s Memorandum In Support of its Motion to Remain Sealed, (Doc. No. 27-1);
4. This Order shall be filed on the public docket and not sealed;

5. The seal of this case is hereby LIFTED as to all other pleadings filed after the date of this Order;
6. The Court approves the Relators' voluntary dismissal of this action pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) and 31 U.S.C. § 3730(b)(1); and
7. This case is hereby DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED.

Signed: September 28, 2023


Frank D. Whitney
United States District Judge